

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11803-MLW

SHENIA DANCY-STEWART as
Administratrix of the Estate of EVELINE
BARROS-CEPEDA,
Plaintiffs,

v.

THOMAS TAYLOR, Jr., and the CITY
OF BOSTON,
Defendants.

**DEFENDANTS CITY OF BOSTON'S AND THOMAS TAYLOR'S MOTION TO
COMPEL NONPARTY WITNESS' CARLOS FERNANDES'
DEPOSITION TESTIMONY**

Defendants, City of Boston and Thomas Taylor, Jr. ("Defendants"), move this Honorable Court pursuant to Fed. Civ. R. P. 37 for an order compelling the nonparty witness, Carlos Fernandes, to answer the majority of deposition questions he refused to answer on Fifth Amendment grounds in the above-captioned matter. As grounds therefore, the Defendants assert that the Fifth Amendment does not apply to the majority of questions posed and accordingly, Mr. Fernandes must be required to answer and provide testimony. Additionally, the Defendants assert that Mr. Fernandes has waived his Fifth Amendment privilege because he previously provided incriminating statements about the same subject matter.

In support of said motion, the Defendants submit the accompanying Memorandum of Law.

WHEREFORE: The Defendants City of Boston and Thomas Taylor, Jr. respectfully request that this Honorable Court allow their motion.

Respectfully submitted,
DEFENDANTS, THOMAS TAYLOR, JR.
AND CITY OF BOSTON,

By their attorneys:

/s/ Helen G. Litsas

Helen G. Litsas #644848
Special Assistant Corporation Counsel
Hollett Building
38 Main Street
Saugus, MA 01906
(781) 231-8090

Evan C. Ouellette, BBO # 655934
Assistant Corporation Counsel
City of Boston Law Department
Room 615, City Hall
Boston, MA 02201
(617) 635-4048

CERTIFICATE OF SERVICE

I, Helen G. Litsas, hereby certify that on this date I served a copy of the foregoing documents upon lead plaintiff's counsel, Andrew Stockwell-Alpert, by electronic filing and by postage prepaid, first class, U.S. Mail, and to counsel for Mr. Carvalho by regular mail and facsimile.

3/2/08 /s/ Helen G. Litsas

Date Helen G. Litsas

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

Pursuant to L.R. D. Mass. 7.1(A)(2), I hereby certify that I communicated with Plaintiff's Attorney, Andrew Stockwell-Alpert, regarding *Defendants Thomas Taylor and City of Boston's Motion To Compel*, and we were unable to narrow the issues.

3/2/08 /s/ Helen G. Litsas

Date Helen G. Litsas